

R590. Insurance, Administration.

R590-142. Continuing Education Rule.

R590-142-1. Authority.

This rule is promulgated pursuant to:

(1) Subsection 31A-2-201(3) that authorizes the commissioner to adopt rules to implement the provisions of the Utah Insurance Code;

(2) Subsection 31A-23a-202(1) that authorizes the commissioner to adopt a rule to prescribe the continuation requirements for a producer and a consultant;

(3) Subsection 31A-23a-202(5) that authorizes the commissioner to adopt a rule to prescribe the processes and procedures for continuing education provider registration and course approval;

(4) Subsection 31A-26-206(1) that authorizes the commissioner to adopt a rule to prescribe the continuing education requirements for an adjuster; and

~~[(5) Subsection 31A-35-401.5 that authorizes the commissioner to adopt a rule to implement the continuing education requirement for renewal of a bail bond producer license; and]~~

~~[(6)]~~ (5) Subsection 31A-30-209 that authorizes the commissioner to adopt a rule to implement the continuing education requirements for the defined contribution market.

R590-142-2. Purpose and Scope.

(1) The purpose of this rule is to implement the continuing education requirements of Sections 31A-23a-202, 31A-26-206, and 31A-35-401.5.

(2) This rule applies to all continuing education providers and individual producer, consultant, and adjuster licensees under Sections 31A-23a-202, 31A-26-206, and 31A-30-209 ~~[, and 31A-35-401.5]~~.

R590-142-3. Definitions.

For the purpose of this rule the Commissioner adopts the definitions as set forth in Sections 31A-1-301, 31A-23a-102, 31A-26-102, 31A-35-102, and the following:

(1) "Classroom course" means:

(a) a course of study that:

(i) is taught on-site by a live instructor at the same location;

(ii) requires monitoring of a student; and

(iii) may require examination of course content to be performed by a student; or

(b) an interactive course of study that:

(i) is taught by a live instructor from a separate location;

(A) is delivered to a student via:

(I) computer;

(II) teleconference;

(III) webinar; or

(IV) some other method acceptable to the commissioner; or

(ii) is not taught by a live instructor;

(A) is delivered to a student via computer; or

(B) some other method acceptable to the commissioner;

(iii) requires two-way interaction between a student and the instrument of instruction;

(iv) requires monitoring of a student; and

(v) requires examination of course content to be performed by a student.

(2) "Credit hour" means one 50-minute period of insurance related instruction consisting of:

- (a) a classroom course;
- (b) a home study course; or
- (c) some other method acceptable to the commissioner;

(3) "Designated internet site" means an internet site that is designated by the commissioner for a provider to submit a student's course completion information.

(4) "Home-study course" means a non-interactive course of study that:

- (a) is not taught by a live instructor;
- (b) is completed by a student via:
 - (i) computer;
 - (ii) video recording, if the video is professionally produced;
 - (iii) text book; or
 - (iv) some other method acceptable to the commissioner;
- (c) does not require two-way interaction between a student and the instrument of instruction;
- (d) does not require monitoring of a student; and
- (e) requires examination of course content to be performed by the student.

(5) "Insurance related instruction" means that amount of time that is assigned by the commissioner to a course of study to satisfy the requirements of continuing education credit hours under this rule, in which assignment of value shall be made on the basis of:

- (a) content;
- (b) presentation; and
- (c) format.

(6) "Monitoring of a student" means a person or system in place who verifies participation in and completion of a course.

(7) "Nonprofit provider" means an organization that fits the definition of nonprofit corporation as defined in Subsection 16-6a-102(34).

(8) "Provider" means a person who offers a course of study or program for credit to an applicant to satisfy the continuing education requirements of this rule.

R590-142-4. Continuing Education Requirements.

A producer, consultant, and adjuster licensee shall comply with, and a continuing education provider shall be familiar with, the following continuing education requirements:

(1) the number of credit hours of continuing education insurance related instruction required to be completed biennially as a prerequisite to license renewal shall be in accordance with Sections 31A-23a-202, and 31A-26-206[, ~~and 31A-35-401.5~~];

(2) a licensee may obtain continuing education credit hours at any time during the two-year licensing period;

(3) not more than half of the total credit hours required shall be satisfied by courses provided by insurers;

(4) upon renewal of a license, no continuing education credit hours in excess of the number required to renew the license may be

carried over or applied to any subsequent licensing period;

(5) a licensee shall attend a course in its entirety in order to receive credit for the course;

(6) a licensee may repeat a course for credit but will not be permitted to take a course for credit more than once in a license continuation period;

(7) a nonresident licensee who satisfies the licensee's home state's continuing education requirement is considered to have satisfied Utah's continuing education requirement; and

(8) a licensee with a professional designation may use the continuing education credit hours required to maintain the designation to satisfy the requirement of the commissioner if:

(a) the hours are sufficient to meet the current continuing education requirement described in Sections 31A-23a-202 and 31A-26-206; and

(b) the professional designation consists of one or more of the following:

(i) Accredited Customer Service Representative (ACSR);

(ii) Accredited Financial Examiner (AFE) or Certified Financial Examiner (CFE);

(iii) Accredited Insurance Examiner (AIE) or Certified Insurance Examiner (CIE);

(iv) Certified Financial Planner (CFP);

(v) Certified Insurance Counselor (CIC);

(vi) Certified Risk Manager (CRM);

(vii) Registered Employee Benefits Consultant (REBC);

(viii) Chartered Property Casualty Underwriter (CPCU) with completion of the Continuing Professional Development (CPD) program; or

(ix) Certified Life Underwriter (CLU), Chartered Financial Consultant (ChFC) or Registered Health Underwriter (RHU) with completion of the Professional Achievement in Continuing Education (PACE) recertification program.

(9) A producer who solicits or sells a defined contribution plan in accordance with Section 31A-30-209 shall complete a minimum of two hours of defined contribution continuing education that includes training on use of the Utah Health Exchange and premium assistance programs:

(a) prior to soliciting or selling a defined contribution plan; and

(b) during each subsequent two-year licensing period that the producer solicits or sells a defined contribution plan.

R590-142-5. Experience Credit.

(1) Continuing education credit hours may be granted to a licensee for experience credit at the discretion of the commissioner, including credit for experience such as the authoring of an insurance book, course or article.

(2) Membership by a producer or consultant in a state or national professional producer or consultant association is considered to be a substitute for two credit hours for each year during which the producer or consultant is a member of the association, except as provided in (3) below.

(3) No more than two hours of continuing education credit shall be granted per year during the two-year license continuation period, regardless of the number of professional associations of which the producer or consultant is a member.

(4) An approved continuing education course taught by an approved instructor holding a Utah producer, consultant, or adjuster license shall receive twice the number of credit hours allocated by the commissioner for the course, except as provided in Subsection (5) below.

(5) Credit for instruction of a course shall be granted no more than once per license renewal period for each course taught.

(6) Continuing education experience credit shall not be granted for committee service.

R590-142-6. Controls and Reporting of Credit Hours.

(1) Within 14 days of completion of a course of study, the provider shall:

(a) furnish to each student successfully completing the course a certificate of completion; and

(b) electronically submit a course completion record to a designated Internet site identifying the student and course information for each student that completed the course.

(2) In the event the provider fails to notify the commissioner of a student's course completion, the licensee may use the certificate of completion as proof of having successfully completed the course.

(3) The provider shall keep proof of successful electronic attendance submission on file for a period of at least the current calendar year plus two years.

R590-142-7. Course Requirements.

(1) Prior to offering a course for credit in Utah, a person must register as a provider and submit a completed continuing education course filing form and course outline for review by the commissioner.

(2) Upon receipt of a completed continuing education course filing form and course outline, the commissioner shall:

(a) approve a course as qualifying for credit in accordance with the standards of this rule;

(b) issue a course number; and

(c) assign the number of hours to be awarded to the approved course; or

(d) disapprove a course as not qualifying for credit; and

(e) furnish an explanation of the reason for disapproval of the course.

(3) A course must be submitted to and approved by the commissioner at least 30 days prior to being offered, except that post approval of a course may be granted by the commissioner upon submission of a written request and supporting documentation of a course attended.

(4) A course advertisement shall not state or imply that a course has been approved by the commissioner unless written confirmation of the approval has been received by the provider.

(5) A department employee may attend a course at no cost for the purpose of auditing the course for compliance.

(6) The following course topics are examples of subject areas

that qualify for approval if they contribute to the knowledge and professional competence of an individual licensee as a producer, consultant, or adjuster, and demonstrate a direct and specific application to insurance:

- (a) a particular line of insurance;
- (b) investments or securities in connection with variable contracts;
- (c) principles of risk management;
- (d) insurance laws and administrative rules;
- (e) tax laws related to insurance;
- (f) accounting/actuarial considerations in insurance;
- (g) business or legal ethics; and
- (h) other course subject areas may be acceptable if the provider can demonstrate that they contribute to professional competence and otherwise meet the standards set forth in this rule.

(7) The following course topics are examples of subject areas that do not qualify for approval:

- (a) computer training and software presentations;
- (b) motivation;
- (c) psychology;
- (d) sales training;
- (e) communication skills;
- (f) recruiting;
- (g) prospecting;
- (h) personnel management;
- (i) time management; and
- (j) any course not in accordance with this rule.

(8) The following continuing education standards must be met for a course to qualify for continuing education credit:

(a) the course must have significant intellectual or practical content to enhance and improve the insurance knowledge and professional competence of participants;

(b) the course must be developed by persons who are qualified in the subject matter and instructional design;

(c) the course content must be up to date;

(d) the instructor must be qualified with respect to course content and teaching methods;

(e) the instructor may be considered qualified if through formal training or experience, the instructor has obtained sufficient knowledge to competently instruct the course;

(f) the number of participants and physical facilities for a course must be consistent with the teaching method specified;

(g) the course must include some means for evaluating the quality of the course content;

(h) the course must provide for a method to authenticate each student's identity; and

(i) the course must be taught in a manner compliant with the Americans With Disabilities Act to enable licensees with a physical or mental disability to complete the continuing education requirements.

(9) The following are additional requirements for an interactive computer course of study that is not taught by a live instructor:

- (a) provide during each hour of the course at least four

interactive inquiry periods that include one or more of the following type of exam questions:

- (i) multiple choice
 - (ii) matching; or
 - (iii) true false;
 - (b) the inquiry periods shall occur at regular and relatively evenly-spaced intervals between each period;
 - (c) the inquiry periods shall cover material from the applicable section of the course that was presented to the student;
 - (d) one of the inquiry periods must be administered at the end of the course;
 - (e) identify all incorrect responses and inform the student of the correct response with an explanation of the correct answer;
 - (f) require answering 70% of the inquiries for each period correctly to demonstrate mastery of the current section, including the final section, before the student is allowed by the program to proceed to the next section or complete the course;
 - (g) in the event a student does not achieve the 70% correct response rate necessary to advance to the next section, generate a different set of inquiries for the section, which may be repeated as necessary on a random or rotating basis;
 - (h) provide a method to reasonably authenticate the student's identity on a periodic hourly basis, including upon entering, during, and exiting the course; and
 - (i) provide for a method to directly transmit the final course completion results to the provider or a printed course completion receipt to be sent to the provider for issuance of a completion certificate.
- (10) A continuing education course shall not be offered or taught by a person who has:
- (a) a lapsed, surrendered, suspended, or revoked provider registration;
 - (b) a suspended or revoked insurance license; or
 - (c) been prohibited from teaching a course.
- (11) Continuing education credit may not be granted for a course that is:
- (a) not approved by the commissioner; or
 - (b) offered or taught by a person who has:
 - (i) a lapsed, surrendered, suspended, or revoked provider registration; or
 - (ii) been prohibited from teaching a course.

R590-142-8. Provider Requirements.

- (1) A provider or a state or national professional producer or consultant association may:
 - (a) offer a qualified course for a license type or line of authority on a geographically accessible basis; and
 - (b) collect a reasonable fee for funding and administration of a continuing education program, subject to the review and approval of the commissioner.
- (2) A person must register with the commissioner as a provider prior to acting as a provider in Utah.
- (3) To initially register as a provider, a person must:

(a) electronically submit a completed provider registration form;

(b) submit a course outline that includes information regarding the course content and the number of credit hours requested for the course; and

(c) pay an initial registration fee, as identified in Rule R590-102, except as provided in Subsection (4) below.

(4) A nonprofit provider is not required to pay a registration fee.

(5) To renew a provider registration, a provider, other than a non-profit provider, must pay an annual renewal fee, as identified in Rule R590-102, prior to the annual renewal date.

(6) To renew a non-profit provider registration, electronic notification must be submitted to the commissioner prior to the annual renewal date, of the intent to renew the registration.

(7) Prior to a course being taught, a provider shall:

(a) post the course offering to a designated internet site;

(b) provide the commissioner with the name and resume of the instructor or instructors who will be teaching the course; and

(c) include identifying information as to any insurance license previously or currently held by the instructor or instructors who will be teaching the course.

(8) A provider shall report to the commissioner:

(a) an administrative action taken against the provider in any jurisdiction; and

(b) a criminal prosecution taken against the provider in any jurisdiction.

(9) The report required by Subsection (8) shall:

(a) be filed:

(i) at the time of submitting the initial provider registration; and

(ii) within 30 days of the:

(A) final disposition of the administrative action; or

(B) initial appearance before a court; and

(b) include a copy of the complaint or other relevant legal documents related to the action or prosecution described in Subsection (8).

(10) The commissioner may prohibit any person from acting as a provider or instructor in Utah if the commissioner determines that:

(a) the person is not competent and trustworthy; or

(b) the person or course of study fails to meet the qualifying standards.

R590-142-9. Loss of Provider Registration and Course Disapproval.

(1) A provider registration, other than a non-profit provider registration, shall lapse if a provider fails to pay an annual renewal fee prior to the annual renewal date.

(2) A non-profit provider registration shall lapse if electronic notification of the intent to renew the registration is not submitted to the commissioner prior to the annual renewal date.

(3) To reinstate a lapsed or surrendered provider registration, other than a non-profit provider registration, a provider must:

(a) submit a completed provider registration form; and

(b) pay a reinstatement fee, as identified in Rule R590-102.

(4) To reinstate a lapsed or surrendered non-profit provider registration, a non-profit provider must submit a completed provider registration form.

(5) A provider registration may be suspended or revoked, an instructor prohibited from teaching a course, or a course disapproved, if the commissioner determines that:

(a) a course teaching method or course content no longer meets the standards of this rule;

(b) a provider reported that an individual had completed a course in accordance with the standards furnished for course credit, when in fact the individual has not done so;

(c) a provider or instructor conducting a course instructs for less than the number of credit hours approved by the commissioner, but reports the full credits for the individual attending the course;

(d) credit for a course was not electronically reported to a designated internet site in a timely manner for an individual who satisfactorily completed a course in accordance with the standards furnished for course credit;

(e) a provider or instructor:

(i) lacks sufficient education or experience in the subject matter of the course;

(ii) has had a provider registration suspended or revoked in another jurisdiction;

(iii) has had an insurance license suspended or revoked; or

(iv) is otherwise no longer qualified in accordance with the standards of this rule; or

(f) there is other good cause evidencing that:

(i) a provider registration should be suspended or revoked;

(ii) an instructor should be disallowed from teaching a course;

or

(iii) a course should be disapproved.

(6) The commissioner may disapprove any course, whether or not it had been previously approved, if:

(a) the commissioner determines that the course of study fails to meet the qualifying standards; or

(b) a change of 50% or more has been made in the course content since the initial approval of the course, subject to resubmission of the course for review and subsequent approval of the course by the commissioner.

(7) A provider may re-apply for a course that has been disapproved upon providing satisfactory proof to the commissioner that the conditions responsible for the disapproval have been corrected.

(8) To reinstate a suspended or revoked provider registration, a provider must:

(a) submit a completed provider registration form;

(b) submit a course outline that includes information regarding the course content and the number of credit hours requested for the course;

(c) pay a reinstatement fee, as identified in Rule R590-102, except as provided in Section 8(4) of this Rule; and

(d) provide satisfactory proof to the commissioner that the conditions responsible for the suspension or revocation have been

corrected.

(9) A person with a revoked provider registration may not apply for a new registration for five years from the date the registration was revoked without the express approval by the commissioner, unless otherwise specified in the revocation order.

R590-142-10. Penalties.

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-142-11. Enforcement Date.

The commissioner will begin enforcing this rule on the effective date of the rule.

R590-142-12. Severability.

If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

KEY: insurance continuing education

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Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-23a-202; 31A-26-206; 31A-35-401.5